

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAHANZEB K. GHOURI,

Plaintiff,

v.

CITY OF OLYMPIA,

Defendant.

CASE NO. C10-5131RBL

ORDER

THIS MATTER is before the Court on Defendants City of Olympia's Motion for Summary Judgment. [Dkt. #8] Plaintiff Ghouri was arrested by (unnamed and non-party) City of Olympia Police Officers for domestic violence assault in December 2006, following an admittedly physical altercation with his female roommate. He sued the City for False Arrest, negligence, and Municipal Civil Rights under 42 U.S.C. §1983.

The City moves for summary judgment, seeking dismissal of all of Plaintiff's claims against it. It argues that Plaintiff has not and cannot meet his burden of establishing municipal liability under *Monell v. N.Y. City Dept. of Soc.Svcs.*, 436 U.S. 658, 694, 98 S.Ct. 2018 (1978):

[A] local government may not be sued under § 1983 for any injury inflicted solely by its employees or agents. Instead, it is when execution of a government's policy or custom, whether made by its lawmakers or by

1 those whose edicts or acts may fairly be said to represent official policy,
2 inflicts the injury that the government as an entity is responsible under §1983.

3 As the City argues, in order to hold it liable under § 1983, the Plaintiff is required to “identify a
4 municipal ‘policy’ or ‘custom’; that caused his injury.” The City also argues that there was
5 probable cause to arrest Mr. Ghouri, and that that is a complete defense to his false arrest claim.

6 The City seeks dismissal of the Plaintiff’s negligent training claim, arguing it is “well
7 settled that a claim for negligent investigation against a police officer is not cognizable in
8 Washington.” Citing *Laymon v. Dep’t of Natural Resources*, 99 Wn.App. 518, 530, 994 P.2d 232
9 (2000); *Fondren v. Klickitat County*, 79 Wn.App. 850, 862, 905 P.2d 928 (1995).

10 Plaintiff’s Response to the City’s Motion [Dkt. #10] is based exclusively on his claim
11 that the officers “should have known” that he was lawfully protecting his property when he got
12 into the physical altercation with his tenant/roommate, and that as a result they arrested him
13 without probable cause. Plaintiff does not address the *Monell* / municipal liability claim, and
14 does not substantively address the City’s argument with respect to the viability of his
15 “negligence” claim against it.

16 As an initial matter, then, the City of Olympia is entitled to summary judgment on
17 plaintiff’s municipal civil rights claim under 42 U.S.C. § 1983, and that claim is DISMISSED
18 WITH PREJUDICE.

19 Plaintiff’s negligent training claim is supported only by his claim that the officers should
20 have known he was lawfully defending his property, and that they must have been poorly
21 trained. There is no evidence to support this claim, and it is contrary to well established
22 Washington law. Plaintiff’s Negligence claim is therefore DISMISSED WITH PREJUDICE.

1 The remaining claim is Mr. Ghouri's false arrest claim. The City argues that plaintiff
2 cannot establish this claim for two independent reasons, either of which are sufficient for
3 summary judgment. First, it argues that

4 Under state law a police officer "shall not be held liable in any civil action for an
5 arrest based on probable cause, enforcement in good faith of a court order, or any other
6 action or omission **in good faith** under this chapter arising from an alleged incident of
7 **domestic violence** brought by any party to the incident." RCW 10.99.070. [Dkt. #15 at 3]

8 Plaintiff has not even alleged that the unnamed officers were not acting in good faith;
9 instead, his argument is that they were negligently trained or that they were negligent in
10 investigating the circumstances surrounding his altercation with his roommate.

11 The parties agree, as they must, that probable cause is a defense to such a claim. *See*
12 *Hanson v. Snohomish*, 121 Wn.2d 552, 563, 852 P2d 295 (1993) (the existence of probable cause
13 is a complete defense to a claim of false arrest.).

14 Plaintiff argues that, viewed in the light most favorable to him, the evidence supports his
15 claim that had the City's officers investigated the domestic violence scene more thoroughly, they
16 would have determined that he was protecting his property (a computer and an Xbox) by getting
17 into a physical altercation with his female roommate. They should have determined that his
18 conduct was justified, and they would not have arrested him.

19 The City's responds that its officers are not required to make such determinations:

20 [O]nce a police officer has a reasonable basis for believing there is probable cause
21 to arrest, he or she "**is not required to explore and eliminate every theoretically**
22 **plausible claim of innocence for making an arrest.**" *Ricciutti v. New York City Transit*
23 *Auth.*, 124 F.3d 123, 128 (2d Cir. 1997) (Emphasis added).

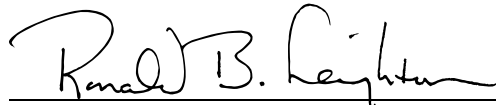
24 The City's officers had probable cause to arrest Mr. Ghouri at the scene of a physical
altercation between he and his female roommate – an altercation Mr. Ghouri admits took place.

1 His claim that they should have investigated further and determined that his conduct was
2 justified cannot support a false arrest claim as a matter of law.

3 This claim is similarly DISMISSED WITH PREJUDICE.

4 IT IS SO ORDERED.

5 Dated this 3rd day of March, 2011.

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8 RONALD B. LEIGHTON
9 UNITED STATES DISTRICT JUDGE
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